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1 relate to the issues presented during this injunction hearing.
2 And then he will talk specifically about poultry waste, runoff
3 and the risk associated with that poultry waste, the
4 groundwater and recreation as pathways to human exposures.

5 We'll next call Dr. Barry Winn, W-I-N-N, who is an
6 emergency room physician. He actually has a number of
7 emergency rooms in the area immediately surrounding and within
8 the Illinois River Watershed. Dr. Winn will talk from a
9 practical standpoint about how procedures in the emergency
10 rooms that he has under operation have been changed, the
11 protocols have changed because of bacterial contamination of
12 the Illinois River watershed.

13 Dr. J. Berton Fisher, geochemist and geologist, will
14 talk about the geology of the watershed. And Your Honor will
15 learn, as I have, that this is an extremely important part of
16 the formula because the geology of this watershed makes it
17 particularly sensitive to water transfers. The karst
18 formations allow these bacteria to go from edge of field to
19 stream, to rivers, down underground, into the groundwater and
20 into the wells within the region. He will also talk about the
21 Ozark uplift and he will talk about the defendants' operations,
22 disposal practices, runoff and transport.

23 Dr. Bernard Engel, an environmental engineer with a
24 PhD in agricultural engineering from Purdue University, will
25 talk about the amount of waste that's generated within the

RECROSS-EXAMINATION

BY MR. GEORGE

Q. Dr. Engel, have you ever spoken with anyone at George's as to why they might be moving poultry litter to the Delta?

A. I have not.

Q. Were you just speculating about why, one possible reason as to why that might be occurring?

A. Well, certainly the literature would all seem to indicate that, you know, you lose the economic value after you transport this more than a few tens of miles, including the Rausser-Dicks materials that you provided.

Q. You have no idea why they transferred it to the Delta, do you?

A. Well, most likely it's either because --

Q. Sir, do you know why they transferred it to the Delta?

A. I don't know exactly why George's does that.

MR. GEORGE: Okay, thank you.

THE COURT: You may step down. The plaintiff may call its next witness.

MR. NANCE: Your Honor, State would call Dr. Gordon Johnson.

GORDON VERNON JOHNSON

Called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

THE COURT: State your full name for the record,

1 please.

2 THE WITNESS: Gordon Vernon Johnson.

3 THE COURT: Mr. Nance, you may inquire.

4 MR. NANCE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. NANCE:

7 Q. You've told the Court your name. Would you tell the Court
8 what you have done in your professional career, particularly at
9 the Oklahoma State University?

10 A. I served as extension soil nutrient management specialist
11 and director of the soil, water and forage testing laboratory.

12 Q. And for what period of time were you at Oklahoma State
13 University?

14 A. I was there from 1977 through 2004.

15 Q. Were you, at least in 2003 and '4, the regent's professor
16 of soil science at the university?

17 A. Yes.

18 Q. Let me ask you to look at Exhibit No. 84 and ask if that
19 is your curriculum vitae current through March of 2003?

20 A. Yes.

21 Q. And other than the fact of your retirement in 2004, is
22 there any change that needs to be made to that?

23 A. No.

24 Q. Have you testified as an expert witness in court cases
25 before?

1 the loop on before I finish my time with you. You recall we
2 talked about Mr. Saunders' farm and his animal waste management
3 plan, and that's Defendants' Exhibit 6. I want to go briefly
4 back to -- it was the fourth page of the exhibit, Bates number
5 182. And Ms. Ferguson is going to put it up on the screen.

6 THE COURT: I think we need to have this document
7 identified, Mr. McDaniel.

8 MR. MCDANIEL: Certainly.

9 THE COURT: Have the witness identify it.

10 Q. (By Mr. McDaniel) Right. Dr. Johnson, would you, again,
11 for the benefit of the record identify what is Defendants'
12 Exhibit 6?

13 A. It is titled Animal Waste Management Plan W.A. Saunders
14 Poultry Production Operation.

15 Q. And on the cover sheet from Oklahoma Department of
16 Agriculture, Food and Forestry; is that correct?

17 A. Yes.

18 Q. All right, thank you. Now, back over to the fourth page
19 of the exhibit, sir, where we were looking at the table that
20 showed the soil test results for Mr. Saunders' five fields?

21 A. Yes.

22 Q. Are you back there?

23 A. Yes.

24 MR. MCDANIEL: I asked Ms. Ferguson to blow up on the
25 screen the section that I wanted to talk about now.

1 THE COURT: Mr. McDaniel, before we go any further, I
2 know we referenced this before, but is there any objection to
3 the admission of -- I take it this is on the list?

4 MR. MCDANIEL: It is, sir.

5 THE COURT: Okay.

6 MR. MCDANIEL: But if it will help the Court,
7 Mr. Nance and I both agreed prior to your announcement that the
8 exhibits I identified and he's identified a couple more,
9 there's no objection to their use.

10 THE COURT: Mr. Nance, for the record.

11 MR. NANCE: That's correct, Your Honor.

12 THE COURT: Very good. Go ahead.

13 MR. MCDANIEL: Thank you.

14 Q. (By Mr. McDaniel) Dr. Johnson, not to replot ground,
15 pardon the pun, that we did yesterday. This animal waste
16 management plan approved by ODAFF gives a maximum allowable
17 litter application that can be used by Mr. Saunders on his
18 fields. Do you agree?

19 A. I'm not sure what you're looking at.

20 Q. All right. Look just below the table. The table says
21 soil test results?

22 A. Yes.

23 Q. All right. And do you see that text below that?

24 A. Yes.

25 Q. Could you read the first two sentences aloud, please?

1 A. Okay. Soil test P index is below 250 in all fields
2 tested. Litter can be applied at the full rate, parenthesis,
3 200 pounds P205 per acre, parenthesis closed.

4 Q. And the next sentence, please.

5 A. 200 pounds P205 divided by 79 pounds P205 per ton of
6 litter equals 2.5 tons of litter per acre per year maximum
7 application rate.

8 Q. All right. For the lay person, is this animal waste
9 management plan telling Mr. Saunders he can put up to two and a
10 half tons of litter per acre per year?

11 A. Yes, it is.

12 Q. All right. And that would include Field No. 3 that tested
13 at 65 STP?

14 A. Yes.

15 Q. All right, thank you. Now, on the question of just
16 strictly agronomic needs for phosphorus, isn't it true,
17 Dr. Johnson, that Oklahoma State University recommends that
18 when fertilizing for phosphorus purposes that a threshold of
19 120 STP be used to ensure that every place in the field has at
20 least 65 STP available to the plant?

21 A. There are some references to that, yes.

22 Q. All right. And that's because there can be just
23 variability in the real world as to the actual phosphorus
24 content of the soils across a pasture?

25 A. Yes.

1 Q. And by using the soil test method and shooting for 120 for
2 phosphorus purposes, that ensures all the areas of the field
3 has at least 65 for the benefit of the growing plants; right?

4 A. If the field variability exceeds the variability that
5 existed when the soil test calibration was conducted to reach
6 that 65 level, that would be true.

7 Q. Now, Dr. Johnson, you're not here today to offer the
8 opinion that poultry litter qualifies as a solid waste under
9 the Federal Solid Waste Disposal Act, are you?

10 A. No.

11 Q. Isn't it true, sir, that you're not aware of any
12 jurisdiction that regulates poultry litter as a solid waste?

13 A. That's true.

14 Q. And you're not aware of any jurisdiction that requires
15 animal manures to be landfilled or incinerated?

16 A. That's true.

17 Q. And you're not aware of any jurisdiction that regulates
18 the use of poultry litter based upon its bacterial content?

19 A. That's correct.

20 MR. MCDANIEL: I'll pass the witness. Thank you, Your
21 Honor.

22 THE COURT: Redirect.

23 REDIRECT EXAMINATION

24 BY MR. NANCE:

25 Q. Dr. Johnson, do you still have Mr. Saunders' plan there

1 with you handy?

2 A. Yes, I do.

3 Q. On that page that Mr. McDaniel just referred you to where
4 it says that 200 pounds of P205 per acre could be applied. Do
5 you see that?

6 A. Yes, I do.

7 Q. Let me ask you -- I don't know. I haven't asked
8 Mr. Hammons to put this up. Do you recall our Exhibit 411
9 yesterday which is the phosphorus soil test calibration
10 exhibit?

11 A. Yes, I do.

12 Q. Is there any circumstance that Oklahoma State University
13 would recommend 200 pounds per acre to be applied?

14 A. No.

15 Q. So on Exhibit 411, if it says the STP is zero, the
16 recommendation is 75; is that correct?

17 A. That's correct, yes.

18 Q. All right, sir. Mr. McDaniel asked you a question
19 yesterday about whether or not you knew if any of these
20 defendants had applied poultry waste. Do you recall that?

21 A. Yes.

22 Q. In those instances when you testified yesterday that the
23 average for a particular integrator, the STP was a value that
24 you had calculated, were you looking at the STP levels shown by
25 the various records for contract growers for that particular

1 integrator?

2 A. Yes, I believe so.

3 Q. Okay. Now, do you still have the group of exhibits that
4 Mr. McDaniel gave you, that's Defendants' Exhibit PI 1? Could
5 we talk about that for a moment, please?

6 A. Yes.

7 Q. Before yesterday, had you spent much time looking at these
8 Arkansas regulations?

9 A. No, I had not.

10 Q. Let me, sir, invite your attention, and Mr. Hammons, if
11 you would, please, to page 7 of that exhibit, Section 2202.1.
12 Do you see that?

13 A. Yes.

14 Q. Let me ask you, if I read this correctly, there's a
15 heading that says declared nutrient surplus areas and then an
16 act. And it gives the section, "declared the following areas
17 to be nutrient surplus areas: Number one, the Illinois River
18 Watershed including -- included within Benton, Washington and
19 Crawford Counties." Do you see that?

20 A. Yes, I do.

21 Q. Does that square with your findings that Benton and
22 Washington Counties are nutrient surplus areas?

23 A. Yes.

24 Q. Okay. Let's flip over, if we could, sir, to page 10 of
25 that document. And do you see a heading that says Section

1 based and that you were opposed to it?

2 A. Yes.

3 Q. Did anyone at NRCS say, well, no, Dr. Johnson, here's the
4 scientific basis for a 300 STP limit or a 400 limit or whatever
5 it was at the time?

6 A. No, there has never been any scientific evidence provided
7 to suggest that it is a science based number.

8 MR. NANCE: I can't improve on that, Judge. Nothing
9 further.

10 THE COURT: Recross.

11 RECROSS-EXAMINATION

12 BY MR. MCDANIEL:

13 Q. Dr. Johnson, you would agree that the majority of the
14 states in the United States either uses a phosphorus index or
15 they use the NRCS Code 590; right?

16 A. I believe the majority of the states have a NRCS 590 or a
17 phosphorus index.

18 Q. Now, the Arkansas rules that you reviewed again with
19 Mr. Nance, the Arkansas rules that cover the Illinois River
20 Watershed do actually provide some criteria for the use of
21 commercial fertilizer; right?

22 A. I think we covered that.

23 Q. Well, the answer is yes, sir?

24 A. Yes, yes.

25 Q. Thank you. There are no such restrictions on the use of

1 commercial fertilizer on the Oklahoma side; correct?

2 A. Yes, there are.

3 Q. And what is that?

4 A. It's 65.

5 Q. There's no regulations, there's no state law regulating
6 the use of commercial fertilizer on the Oklahoma portion of the
7 Illinois River Watershed; right?

8 A. That may be true. What I'm referring to is the guidelines
9 in Oklahoma's Code 590 that identifies a table similar to the
10 one that we looked at in Exhibit 2 and limits the input of
11 phosphorus as a commercial fertilizer when the soil test
12 exceeds 65.

13 Q. There's a recommendation in the 590 but there is no
14 regulatory program to enforce that for commercial fertilizer
15 use; right?

16 A. I think that's probably true, yes.

17 Q. Now, Mr. Nance was very careful in asking you questions
18 about when things made agronomic sense when you were going
19 through the Arkansas rules. And every time he asked you did it
20 make agronomic sense for the use of phosphorus, that was the
21 frame -- the way he framed all of his questions; right?

22 A. I believe so.

23 Q. He did not ask you if it made agronomic sense for any
24 other constituent in litter, did he, sir?

25 A. No.

1 Q. Now, Oklahoma State University provides recommendations
2 and counsel to both the Oklahoma Department of Agriculture,
3 Food and Forestry and the NRCS with regard to nutrient
4 management. Do you agree?

5 A. Yes.

6 Q. And both the regulations in Oklahoma and the NRCS Code 590
7 do not restrict poultry litter utilization to a strict 65 STP
8 threshold, do they?

9 A. That's true.

10 Q. Now, you've never actually conducted any research on a
11 modern phosphorus index, have you, Dr. Johnson?

12 A. On the phosphorus index as it's used in measuring relative
13 risk for animal waste, no. And the reason I want to specify
14 that is because the numbers in Fact Sheet 2225 for decades were
15 identified as a phosphorus index before the other concept of a
16 phosphorus index came into being.

17 Q. All right. Now, Dr. Johnson, you're not here today to
18 speak for Oklahoma State University, are you?

19 A. No.

20 Q. And no one with speaking authority for Oklahoma State
21 University has told you that they agree with your opinion that
22 all poultry litter should be removed from the Illinois River
23 Watershed; right?

24 A. That's right.

25 Q. And of all the university and NRCS scientists who are

1 studying nutrient management in this region, you can't identify
2 a single one who has endorsed your view that 100 percent of the
3 poultry litter should be removed from the Illinois River
4 Watershed?

5 A. That's true.

6 Q. And there's been no head of any Oklahoma environmental
7 regulatory agency who's expressed to you that they agree with
8 your opinion that all the poultry litter should be exported
9 from the Illinois River Watershed?

10 A. That's true.

11 Q. Thank you.

12 MR. MCDANIEL: That concludes my examination, Your
13 Honor. I recognize that when I first came up we didn't make a
14 very good record for the Court on the numbers of those
15 exhibits, defendants' exhibits. I'd like to identify them for
16 you, please.

17 THE COURT: Please, if you would.

18 MR. MCDANIEL: The defendants' exhibits that I
19 referenced and that the State has stipulated to the admission
20 are 1, 2, 3, 4, 6, 13, 14, 18 and 21.

21 THE COURT: Very well. Under the previous
22 stipulation, Defendants' Exhibits 1, 2, 3, 4, 6, 13, 14, 18 and
23 21 are recognized as having been previously admitted.

24 MR. MCDANIEL: Thank you.

25 MR. NANCE: Your Honor, if I did not indicate 87, that

1 Q. Nonetheless, this is a significant number you've
2 calculated?

3 A. Absolutely, it is significant.

4 Q. And it's gotten higher currently than it was ten years
5 ago, the usage, the floating usage of the river?

6 A. I can't say for ten years ago. All I know right now that
7 I can honestly compare would be the last four years because in
8 2003 there was a different counting method used by the Scenic
9 Rivers Commission. So the numbers are not really comparable,
10 and I would go back to a couple of the exhibits.

11 Q. Dr. Caneday --

12 A. I don't know if it's more or less.

13 Q. -- if you can't answer my question, that's fine.

14 A. Yeah, I don't know that.

15 Q. Now, you're not aware of any documented evidence that any
16 recreational floater on the Illinois River Watershed has ever
17 contracted an infectious disease as a direct result of
18 recreating in the river or stream?

19 A. I am not aware of that.

20 Q. Now, you're not suggesting to the Court by your testimony
21 or your affidavit and you're not trying to imply that there is
22 any risk of a recreational floater contracting disease from
23 pathogenic bacteria in the waters?

24 A. That is not my area.

25 Q. Now, you stated the primary recreational use for the river

1 Arkansas?

2 MR. RYAN: I'm not sure, Your Honor.

3 MR. GEORGE: Little Rock, Your Honor.

4 THE COURT: Does he not face the same concerns?

5 MR. GEORGE: I expect he's driving as opposed to
6 flying would be the distinction.

7 THE COURT: Is he here in the courtroom?

8 MR. GEORGE: He is. Your Honor.

9 THE COURT: Doctor, I take it you're driving? You
10 say, he is?

11 MR. GEORGE: It's Randy Young, actually the executive
12 director of the Arkansas National Resources Commission.

13 THE COURT: Yes, sir. Are you driving, sir?

14 MR. YOUNG: Yes, sir.

15 THE COURT: Doctor, you are flying?

16 DR. DUPONT: Flying.

17 THE COURT: What time is your flight, sir?

18 DR. DUPONT: It's not until tomorrow.

19 THE COURT: All right. Well, then let's take our
20 other witness first as set forth in the previous schedule.

21 MR. GEORGE: Thank you, Your Honor.

22 THE COURT: Yes, sir.

23 MR. GEORGE: Defendants call Randy Young.

24 JESSE RANDALL YOUNG

25 Called as a witness on behalf of the defendants, being first

1 duly sworn, testified as follows:

2 THE COURT: State your full name for the record,
3 please.

4 THE WITNESS: Jesse Randall Young.

5 THE COURT: Thank you. You may inquire.

6 DIRECT EXAMINATION

7 BY MR. GEORGE:

8 Q. Mr. Young, can you state your current place of employment?

9 A. I'm the executive director of the Arkansas Natural
10 Resources Commission.

11 Q. And how long have you been the executive director of the
12 Arkansas Natural Resources Commission, sir?

13 A. Since May of 1985.

14 Q. Okay. Did you work with the Department of Natural
15 Resources or perhaps its predecessor prior to them?

16 A. Yes.

17 Q. In what capacity?

18 A. I started in 1971 as an entry level engineer and became
19 the deputy director and chief engineer, I think, in 1976.

20 Q. Mr. Young, do you hold an engineering degree and
21 certification?

22 A. Yes.

23 Q. What particular area of engineering?

24 A. I have a bachelor of science in agricultural engineering
25 and a master of science in environmental engineering.

1 I could give you some specific numbers for '06 and '07. And in
2 those two years, I believe we have -- our conservation district
3 employees have -- the number escapes me momentarily. I'll see
4 if I can recall what it is but I think it's 1,995 were written
5 in those two years.

6 Q. Mr. Young, is there an inspection process by Arkansas
7 Natural Resources Commission to determine compliance with
8 plans?

9 A. We actually have an agreement with our -- between my
10 agency and our DEQ to provide inspection, not only of these dry
11 litter permit facilities but also the CAFO facilities. And our
12 conservation district technicians, in the agreement that my
13 agency has with them, we require them to do an inspection on
14 five percent of those permitted facilities annually. My
15 employees at DNR do some joint inspections with those
16 technicians so that we're satisfied that the inspections are
17 actually being done properly.

18 Q. Mr. Young, if an inspection discovers or reveals a
19 violation of the law, what's the process for correcting that
20 under the Arkansas regulatory program?

21 A. Our first objective is to get compliance with our Arkansas
22 laws. And we have instructed our conservation districts and
23 their technicians to use that as a priority, provide whatever
24 technical assistance is available to try to get compliance.
25 And if we simply can't get compliance in that manner, we have,

1 I think, appropriate authority to assess penalties. If we
2 think it's a direct violation of our state water quality
3 standards, the agreement we have with DEQ, we refer that matter
4 to them to take enforcement action on.

5 Q. Mr. Young, based upon the inspections that have been
6 performed and your own personal knowledge as well as
7 conversations with your staff members, are you aware of any
8 indication of widespread non-compliance in the State of
9 Arkansas with your regulatory program?

10 A. No. We've probably had more problem with compliance with
11 the registration part of it. I think we sent out something
12 like a hundred certified letters last year to people who had
13 previously registered, but did not last year. And I think we
14 got 90 percent of those complied just based on that. And we
15 had to resort to getting a local sheriff's deputy to actually
16 serve the papers on the other 10 or 11. I think we ended up
17 issuing -- entering into consent agreements with ten of those
18 and they were assessed a first tier penalty.

19 Q. What you are describing, as I understand it, is
20 registration issues; correct?

21 A. Yes.

22 Q. What about with respect to land application practices?
23 Are you aware of any evidence of widespread violation of the
24 Arkansas laws regarding litter application rates under the
25 regulatory program?

1 A. No, our experience has been we've received several phone
2 calls, primarily with concern about dust and odor issues. And
3 when we made the callers aware that under the law and our
4 regulations, they have to identify themselves and file a
5 notarized complaint, that has a chilling effect on the average
6 citizen, I guess, because most of those who called in with that
7 type of complaint didn't follow up. So the complaint didn't
8 rise to meet the standard for us to investigate it.

9 Q. Mr. --

10 A. We've since --

11 Q. I'm sorry?

12 A. We didn't log those calls. We've since started logging
13 those. But we did have, I think, four complaints from
14 individuals who identified themselves and submitted a notarized
15 letter that we followed up on. Two of those were complaints of
16 overapplication of chicken litter. And one of them was
17 application without a plan. And the fourth one was a suspected
18 water quality violation.

19 Q. Mr. Young, in each of those four instances, did the agency
20 take action to investigate the complaint and, if appropriate,
21 to pursue remedies?

22 A. Yes. They were all investigated by the conservation
23 district technicians as well as by my staff. Three of the four
24 were issued warning letters, which is what's called for under
25 our regulations for a first violation. Plus we scheduled a

1 THE COURT: All right. Exhibits 354, 55, 56, 57, 58,
2 60 and 363, any objection?

3 MR. GEORGE: No objection, Your Honor.

4 THE COURT: Those exhibits are admitted.

5 RANDALL WRIGHT ROBINSON

6 Called as a witness on behalf of the defendants, being first
7 duly sworn, testified as follows:

8 THE COURT: State your full name for the record,
9 please.

10 MR. RYAN: Mr. Robinson, the Judge is talking to you.

11 THE COURT: I'm sorry. State your full name for the
12 record, please.

13 THE WITNESS: Randall Wright Robinson.

14 THE COURT: Thank you.

15 MR. RYAN: Thank you, Your Honor.

16 THE COURT: Mr. Ryan.

17 DIRECT EXAMINATION

18 BY MR. RYAN:

19 Q. Mr. Robinson, where do you live?

20 A. Fayetteville, Arkansas.

21 Q. About how far out of Fayetteville do you live?

22 A. About 15 mile.

23 Q. How close are you to the Oklahoma line?

24 A. Probably five or six miles.

25 Q. Are you a family man?

1 A. 150 to 180.

2 Q. Is your operation, your chicken operation and your farming
3 operation and your ranching operation, do they go together?

4 A. Yeah.

5 Q. And if so, how do they work together?

6 A. Well, we use the chicken litter for fertilizer.

7 Q. Go ahead. Then that fertilizes what?

8 A. Fertilizes the pasture and the hay ground and we can run
9 more cattle.

10 Q. All right. If the cost of poultry operations increases
11 for some reason, how does that impact you?

12 A. You mean the cost of my producing poultry?

13 Q. Yes.

14 A. Well, I just make less money.

15 Q. Now, do you have a contract with Tyson?

16 A. Yes.

17 Q. How long have you been a contract grower for Tyson?

18 A. Ten or eleven years.

19 Q. There was some testimony from the prior witness about a
20 standard form contract. Were you able to hear that from where
21 you were?

22 A. Yes.

23 Q. In your own terms, is your contract you signed with Tyson
24 a standard form contract?

25 A. Just a standard contract.

1 A. I do disagree with their conclusions --

2 MS. WARD: Thank you.

3 A. For the reasons I outlined in my declaration.

4 MS. WARD: Thank you.

5 THE COURT: Let's take a recess.

6 MR. MCDANIEL: Your Honor, there will be no redirect.

7 THE COURT: Very well, you may be excused at this
8 point, sir. Thank you very much.

9 THE WITNESS: Thank you.

10 (Recess.)

11 THE COURT: Be seated please. Mr. Elrod.

12 MR. ELROD: Your Honor, we call Mr. John Littlefield
13 by deposition. His testimony will be 18.36.599 seconds in
14 length. And Mr. Littlefield is in the courtroom today and I
15 understand he will be quote, cross-examined, end quote, live.

16 MR. BULLOCK: A brief cross-examination live, Your
17 Honor.

18 THE COURT: Very well, 18 point some seconds; right?

19 MR. BULLOCK: I think we can beat that record.

20 MR. ELROD: It's 18.36.599 minutes.

21 THE COURT: You may proceed.

22 MR. BULLOCK: I want to get my five minutes back.

23 (Excepts of the videotaped deposition of John
24 Littlefield were played as follows:)

25 DIRECT EXAMINATION

1 Q. "Mr. Littlefield, my name is John Elrod and I represent
2 Simmons Foods in this matter, and I'm going to have a few
3 questions for you. We've not met before today, have we, sir?

4 A. "No, sir.

5 Q. "And would you tell me what your name and address is for
6 the record?

7 A. "John L. Littlefield, 38327 South 4370 Road, Adair,
8 Oklahoma 74330."

9 * * * * *

10 A. "I was only there about a year when this job came open in
11 1998 and I started with the Oklahoma Department of Agriculture
12 on a contract."

13 * * * * *

14 Q. "For what counties are you responsible?

15 A. "Counties?

16 Q. "Yes, sir.

17 A. "Mayes County, Rogers County, Craig County, Ottawa County,
18 and Delaware County, most of Delaware. There is a strip on the
19 north side of -- or the south side of 412 that I don't have in
20 Delaware County."

21 * * * * *

22 Q. "In terms of coverage for the entire Illinois River
23 Watershed on the Oklahoma side, that would be you and David
24 Berry?

25 A. "That's correct."

1 * * * * *

2 Q. "What are your job duties?

3 A. "Well, I'm a poultry inspector for those counties. I
4 don't know if I said Mayes County or not in that awhile ago."

5 * * * * *

6 Q. "How many growers are in the counties you work?

7 A. "I -- I think I have about 210. 205, 210.

8 Q. "Of that number, how many have in place phosphorus based
9 animal waste plans?"

10 * * * * *

11 A. "To the best of my recollection, they all do. They either
12 have a plan or they have a letter from the NRCS office stating
13 that they will work them up a plan. So they do have something
14 current in their file."

15 * * * * *

16 Q. "Do you get to know these people pretty well?

17 A. "Yes, sir, I do.

18 Q. "And for the most part are they cooperative with you?

19 A. "Yes, sir, they are.

20 Q. "Courteous?

21 A. "Yes, sir.

22 Q. "Have you had any problems with any hostility at any time
23 ever?

24 A. "Starting out, you know, it was a change and farmers are
25 pretty conservative and independent people.

1 in Oklahoma chose to -- chose that there were would be no new
2 house construction in Oklahoma it could do so?

3 A. "I don't know.

4 Q. "Has that issue ever been discussed between you and your
5 elders at ODAFF?

6 A. "No, sir.

7 Q. "There's never been any discussion that you've been
8 involved in to the effect that maybe we ought to just stop
9 issuing licenses for construction of new houses?

10 A. "No, sir, I don't remember hearing that."

11 * * * * *

12 Q. "Are you aware of any growers in your area of the state
13 who are discharging poultry wastes to the waters of the state
14 of Oklahoma?

15 A. "I'm not aware of any."

16 * * * * *

17 Q. "So as far as the Oklahoma's laws that relate to
18 management of poultry litter, you're the man on the ground
19 that's enforcing those laws out in the watersheds; is that a
20 correct statement?

21 A. "I -- I think so."

22 * * * * *

23 Q. "So I assume that you would agree that an animal waste
24 management plan is designed to protect the natural resources of
25 the state of Oklahoma; do you agree with that?